

# **EXHIBIT 5**

**SFGATE**<http://www.sfgate.com/bayarea/article/Deputy-in-inmate-fights-faced-2006-complaints-6164193.php>

## Deputy in inmate fights faced 2006 complaints

By **Vivian Ho** Updated 6:22 am, Saturday, March 28, 2015



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S.F. Sheriff Ross Mirkarimi (second from left) listens in to public defender Jeff Adachi during a news conference about S.F. sheriff deputies staging cage-fight style matches between inmates for their ... [more](#)

Bullying behavior, offers of cheeseburgers for silence, threats of violence, rumors of other deputies knowing but doing nothing — the accusations in the 2006 sexual assault civil cases against San Francisco sheriff's Deputy **Scott Neu** echo the allegations made Thursday by County Jail inmates who said the deputy forced them to fight each other for his entertainment.

After three inmates in 2006 accused Neu of forcing them to perform sexual acts on him, the case was handled internally by other deputies, and apparently no criminal charges were presented to the district attorney's office.

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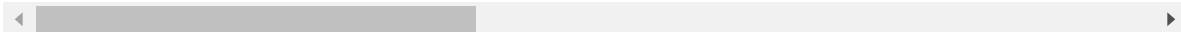
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Since those accusations, Neu has had four more lawsuits filed against him: one for a false arrest and three for excessive force. One excessive force lawsuit is still ongoing, according to the city attorney's office.

Despite all these reports of misconduct — and in the sexual assault case, criminal misconduct — Neu has kept his job with the Sheriff's Department, in a position that allowed him to be in contact with inmates.

"The city and county knew this guy wasn't willing to play by the rules, and they still kept him," said Adante Pointer, an attorney for the inmates in the sexual assault case. "I can't believe this guy was back to working in a County Jail."

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suits had merit in the criminal justice system, which is why charges were never filed against Neu.

Public Defender Jeff Adachi on Thursday released reports from inmates that Neu had been threatening to beat them up and hurt them in order to make them fight each other. He and other deputies would then gamble on the outcome of the fight, they said.

In recorded conversations with Adachi, the inmates said Neu had created an environment of fear and retribution in County Jail No. 4 at 850 Bryant St., humiliating an

overweight inmate by making him “train” for the fights and ordering them to gamble for their basic benefits of food and clean laundry.

In the sexual assault filings, three inmates — a woman and two transsexual men transitioning to women — said that in 2005 and 2006, Neu created a similar atmosphere through sexual harassment at the South of Market jail. He groped them and made lewd comments, forcing them to kiss him, show him their genitals and orally copulate him, they said in court documents. He kept them silent by threatening to beat them or send them to a jail with harsher conditions.

One of the inmates, **Sabrina Wigfall**, said she told two other deputies on two separate occasions that Neu was sexually abusing her, but the deputies did nothing. The abuse continued until she told a third deputy, who alerted his supervisors.

Another inmate, who identified then as David Spears, said after Neu's harassment was reported to a deputy by another inmate, Neu confronted him in the law library.

The other deputy had talked to Spears about the harassment, but when Neu asked him about it, Spears said he was scared and lied about what he told the other deputy. Neu

brought Spears a cheeseburger and fries a few days later to ensure he stayed quiet.

“Mr. Spears’ allegations triggered an investigation into this matter,” the U.S. District Court civil complaint reads. “Mr. Spears was interviewed by detectives from the Sheriff’s Department Internal Affairs Division and has yet to be notified of the result of that investigation or whether Deputy Neu was disciplined for his abhorrent behavior.”

Though there was an investigation, Neu continued working in jails. Wigfall’s reported sexual assault took place three months after Spears’ experience, and the third inmate, who identified then as **Kyle Adams**, said his abuse occurred in August and September 2006.

All three cases were settled out of court in 2009, with the city paying \$97,500, according to the city attorney’s office.

“I believe they were settled for nuisance value, pennies on the dollar,” said Stern, the deputies’ union attorney. “This is a strong indication that they had no merit. Given the lower standard of proof, if there is a lack of evidence as a civil case it is extremely unlikely an allegation can rise to the level needed for a criminal action.”

Stern said the inmates’ attorney could have also referred the allegations to prosecutors, but didn’t, which he said indicates the cases weren’t that strong.

“In addition, one cannot say at this late date that the matters weren’t investigated criminally,” Stern said. “I don’t think any reasonable person would claim that then-Sheriff **Mike Hennessey** — a former civil rights attorney — would cover up this sort of accusation.”

Hennessey could not be reached for comment Friday.

The Sheriff’s Department would not say whether the sexual misconduct charges were investigated by an outside agency, or if the allegations were ever presented to the district attorney. However, **Mark Nicco**, assistant legal counsel for the Sheriff’s Department, said that before the 2014 establishment of the criminal investigations unit, the sheriff’s internal affairs unit handled all reports of deputy misconduct.

The unit, made up of deputies, would decide whether the misconduct rose to the level of criminal charges. If they did, internal affairs would then send the case to the district attorney's office for review.

The district attorney's office said Neu was never arrested or prosecuted for the sexual assault allegations.

"I don't believe there was any case ever presented," said Alex Bastian, a district attorney's office spokesman. "However, we are pulling the records to confirm."

Nicco could not comment on whether Neu ever faced disciplinary action for either the sexual misconduct case or for the allegations made in the four other lawsuits brought up against him. Pointer said he does not recall Neu facing any sort of disciplinary action, but said he was briefly reassigned from working the jails to inmate transport.

Since 2005, the department has fired six sworn personnel and three civilian employees, but Nicco said he did not know why.

According to the city attorney's office, a jury ruled in Neu's favor in one 2011 excessive force lawsuit. Two other lawsuits were dropped by the plaintiffs in 2013 and 2014. The fourth excessive force lawsuit is ongoing.

Since the fight allegations came to light, Neu, along with the other deputies named in the allegations — Deputies Eugene Jones, Clifford Chiba and Evan Staehely — have been put on paid administrative leave. San Francisco police and the sheriff's investigative unit are investigating whether these allegations rise to the level of criminal misconduct.

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